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REMARKS

The Requirement for Restriction contends that the application is drawn to two separate inventions:

- (I) Claims 1-58, drawn to methods of calculating the maximum discharge and minimum charge, classified in class 320 and subclass 149; and,
- (II) Claims 59-74, drawn to an apparatus that claims an estimator means, classified in class 320 and subclass 128.

The Examiner requires restriction of Groups I and II on the grounds that the inventions are patentably distinct from each other. In particular, the Restriction Requirement indicates that Groups I and II are related as process and apparatus for its practice. The Applicants believe this restriction to be improper and unduly burdensome. The reasons given in the Requirement for Restriction for requiring restriction are believed to be insufficient and contrary to the rules.

The MPEP is fairly explicit in permitting searches of multiple inventions if there is no serious burden. M.P.E.P. §803 sets forth the manner in which the Examiner must proceed as follows:

"If the search and examination of an entire application can be made without serious burden, the Examiner must examine all claims on the merits, even though it includes claims to distinct or independent inventions." [emphasis added]

Applicants do not believe the scope of the search proposed is a serious burden of the magnitude contemplated by the PTO. The undersigned has frequently noted that issued patents consistently indicate multiple classes and subclasses searched. In the instant case, the same class (320) for Groups I and II will be searched. With respect to these particular Groups, the Examiner has noted that only two different subclasses (460 and 445) will be searched. It is also submitted that since these claims relate as process and apparatus, examination of both Groups will be expedited because of this relation. On this basis, Applicants respectfully request the Examiner to join Groups (I) and (II). However, to comply with the Requirement, Applicants provisionally elect, **with traverse**,

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the subject matter identified in the Requirement for Restriction as Group (I), drawn to methods of calculating the maximum discharge and minimum charge.

The Examiner has further requested election between two purportedly patentably distinct species within Group I:

I-a Claims 1-29, drawn to a method for estimating maximum discharge for a battery; and

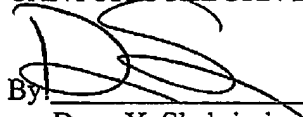
I-b Claims 30-58, drawn to a method for estimating the minimum charge power of a battery.

Applicants provisionally elect, with traverse, as outlined above, to prosecute the claims drawn to a method for estimating maximum discharge for a battery (i.e., Claims 1-29).

The Commissioner is hereby authorized to charge any required fee or fee deficiency under 37 C.F.R. § 1.17 in connection with this communication to our Deposit Account No. 06-1130.

Respectfully submitted,

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